

Forward Plan reference number: FP/216/08/23

Report title: Semi Independent Accommodation and Support - Reopening of the Framework	
Report to: Councillor Beverley Egan, Member for Children & Families	
Report author: Helen Lincoln, Executive Director of Children & Families Services (DCS)	
Date: 30 th October 2023	For: Decision
Enquiries to: Chris Martin, Commissioning Director – Children, Mental Health, Learning Disabilities and Autism (Chris.Martin2@essex.gov.uk)	
County Divisions affected: All Essex	

1 Everyone's Essex

- 1.1 Everyone's Essex sets out four strategic aims and 20 commitments to residents with specific statements to improve outcomes for our most vulnerable groups with the Annual Plan 2023-24 including specific commitments to increase the sufficiency of accommodation for Children in Care and Care Leavers.
- 1.2 Having somewhere to call home, be that with other family members, foster carers, through adoption or residential care is critical to providing our most vulnerable young people with stability enabling them to achieve their fullest potential as they grow and become independent.
- 1.3 Our statutory role to support Children in Care and Care Leavers is governed by our Co-Parenting Panel which is itself informed by the Children in Care and Leaving Care Partnership Board which involves our partners from across Essex and most importantly young people in its work to ensure that the "voice of the child" is at the core of all the work that we do.
- 1.4 The Children Act 1989 was amended by the Children (Leaving Care) Act 2000 and imposes accommodation duties on local authorities to support looked after children and care leavers aged 16 and 17 as well as care leavers over 18 who are ineligible for housing by the Local Housing Authority including Semi-Independent Accommodation (SIA) which is an option for young people preparing to leave our care.
- 1.5 The statutory role for the Council to provide accommodation for Children in Care and Care Leavers in line with this legislation is set out in the Council's Sufficiency Strategy for Children in Care and Care Leavers (2023 – 2026) and sets out our plans to develop more residential, fostering and SIA placements for young people. This proposal enables the Council to meet our statutory duties and our Co-Parenting Parenting responsibilities to secure provision of registered local care, support and accommodation to meet our Sufficiency Duty to young people leaving care.

- 1.6 In January 2021, Cabinet agreed to commission a framework agreement to provide SIA to defined cohorts of young people and families, commencing in October 2021 for a period of 4 years which included the re-opening the framework to new entrants after a period of 2 years if it was required.
- 1.7 New regulations, introduced by Government in 2023, require that all providers of accommodation for Children in Care or Care Leavers up to the age to 18 must be regulated by Ofsted with mandatory registration beginning in October 2023. A change control process will be completed with existing providers to ensure this requirement is specifically included in current contracts and it will also be included in future terms and conditions for new providers added to the framework during the reopening process.
- 1.8 The recommendations have no adverse impacts on the Council's climate objectives. By securing access to local placements there will be a reduction in travel associated with travelling outside of a young person's local community, ensuring they are accommodated close to their existing support networks and services improving their quality of life. SIA providers ensure that the young person develops and maintain links within the local community services and explore local employment opportunities. This reduces travel and develops Essex communities building opportunities for young people. SIA housing provision is required to meet energy standards lowering energy cost and reducing the impact on the climate.
- 1.9 Development of SIA supports our commitments through Levelling Up; currently 30% of our Children in Care are from Tendring and this proposal supports young people by providing accommodation to access education, employment and training which is a cohort being targeted through the next phase of the programme.

2 Recommendations

- 2.1 Agree to re-open the SIA Support Framework Agreement for all four lots to enable new providers to join the framework and existing providers to resubmit their pricing submissions.
- 2.2 Agree that the procurement for the reopening of the SIA Support Framework Agreement will use the original procurement documentation being a single-stage, open tender process using the Council's e-sourcing portal with the high-level evaluation criteria of 60% quality and 40% price.
- 2.3 Agree to amend the terms of the SIA Support Framework Agreement to require all providers to be registered with Ofsted as a result of a change in the law.
- 2.4 Agree that the Cabinet Member, Children's Services and Early Years is authorised to agree any pricing uplifts to existing providers and award contracts to new providers entering the SIA Support Framework Agreement.

3 Background and Proposal

3.1 The Council is required to provide support and accommodation to children and young people leaving care, separated migrant young people, and in some circumstances, families with children. The procurement of a framework agreement for the provision of this support and accommodation was agreed by Cabinet in January 2021 and framework agreements were awarded to the successful providers in August 2021 under the following four lots:

3.1.1 **Lots A and D Eligible and relevant young people aged 16 and 17** The Children Act 1989 as amended by the (Leaving Care) Act 2000 imposes accommodation duties on local authorities to support looked-after children and care leavers aged 16-17. The Council's Sufficiency Strategy for Children in Care and Care Leavers 2023-2026 identifies SIA as one of several accommodation options designed to support some of the most vulnerable children and young people leaving care and still in care. These placements form an important part of the system in meeting the needs of older children who are ready for increased independence.

3.1.2 **Lot B - Separated Migrant Children (SMC)** The Council has a statutory duty under Section 20 of the Children Act 1989 to assess and provide accommodation and support to any child who requires it, irrespective of their immigration status, nationality or documentation, until they reach the age of 18.

3.1.3 **Lot C Families and young people aged 18+ with no recourse to public funds (NRPF)** Section 115 of the Immigration and Asylum Act 1999 states that a person will have 'no recourse to public funds' if they are 'subject to immigration control'. This means they have no entitlement to the majority of welfare benefits, including income support, housing benefit and a range of allowances and tax credits. Under the Hillingdon Judgement, the Council is obliged to adhere to the Local Authority Guidance LAC (2003) (13) on accommodating children in need and their families under section 20 of the Children Act (1989), where they have No Recourse to Public Funds. This extends to providing accommodation for care leavers over the age of 18 in such circumstances.

3.2 Sixty-nine of the bidders who submitted a tender for the original procurement opportunity satisfied the Council's minimum quality criteria for this service and were awarded contracts.

3.3 The current 69 providers on the framework are accommodating 420 young people. Despite high number of providers on the framework, there are still challenges in finding suitable provision at the right time for every young person that requires it. 6 providers that are not on the framework are being used on a spot purchase basis in situations where no other providers are available. 13 new providers have recently contacted the Council expressing an interest in offering SIA in Essex.

3.4 The Council may open the framework to new providers where it determines that there has been sufficient interest from new providers or there are sufficient grounds arising from a review of the framework to merit its re-opening. These requirements are met as 13 new providers have expressed an interest in

providing the service and services are still needing to be spot purchased because there is insufficient capacity from the existing framework providers.

3.5 It is proposed that the framework is reopened to:

3.5.1 increase the range and choice of suitable placements and build capacity by enabling new providers, including those that the Council currently spot purchase from, to bid to join the framework. This will increase capacity in SIA provision and allowing the potential to create further competitive tension to drive best value of services; and

3.5.2 to enable current providers to re-submit their pricing submissions. This will enable them, if they wish, to increase their pricing take into account a) recent inflationary pressures and the impact that has on the cost of care; and b) the financial burden incurred as a result of Ofsted registration requirements. The opportunity for existing providers to do this will minimise risks of closure of providers and thereby ensure supply and capacity is maintained. It is envisaged that most providers will want to increase their costs as a result of the additional costs that they will incur from Ofsted registration.

3.6 In Essex over the last 18 months, the monthly volumes of young people accommodated in SIA provision have increased from 254 in March 2022 to 420 in August 2023. This is due to an increase in placements for care leavers and separated migrant children (Lots A and B). This growing demand highlights the need to reopen this framework and allow new providers and those that the Council currently spot purchase from to join the framework to help meet this demand. Below are the number of placements between 2022- 2023:

Lot	Framework Placements Made between April 2022- March 2023
Lot A- Semi-independent accommodation and support for eligible and relevant young people aged 16 and 17	110 (all children currently in care)
Lot B- Semi-independent accommodation and support for Unaccompanied Asylum-Seeking Children (UASC) aged 16 and 17, including where initial age assessment is required	176 (all UASC)
Lot C- Accommodation for families and young people 18+ with no recourse to public funds (NRPF) where the Council has a duty to provide them with accommodation	80 (78 care leavers that are previous UASC. 2 Asylum seeking families)
Lot D- Semi-independent accommodation and support	30 (children currently in care)

for eligible and relevant young people aged 16 and 17, who have complex needs that require extended, intensive support and supervision	
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- 3.7 The SIA Framework allows the Council to open the framework to re-competition for any or all of the Lots when the following conditions are met:
- 3.7.1 The re-opening process is conducted with the same documentation content but not necessarily the same time periods as the original Invitation to Tender (subject to any updates as are required to keep such content up to date).
 - 3.7.2 Each framework provider will be required to confirm either that there has been no change to its tender response or to confirm what changes have occurred since its tender response and any changes will be subject to evaluation in accordance with the published criteria.
 - 3.7.3 The Council will evaluate all of the qualitative and pricing submissions from existing providers and new providers to determine the overall ranking of the respective bids. The Council will advise each provider of the outcome of this evaluation alongside any revisions to their ranking for this framework in writing in line with the timescales provided within the refresh guidance documentation.
- 3.8 The procurement for the reopening will be carried out using the same documents and procedures as the original procurement of the framework being:
- 3.8.1 A single-stage, open tendering process via the Council's e-sourcing portal, advertised via the government Find A Tender service, Contracts Finder and on the Council's opportunities listings website.
 - 3.8.2 The procurement will be evaluated using the high-level criteria of 40% price and 60% quality. Social value will be incorporated within the quality element with the precise weighting to be determined.
 - 3.8.3 Admission onto the framework is no guarantee that a placement will be made, and the quality of available placements is key therefore it is recommended that 60% of the weighting evaluates the quality of the service to be provided.
 - 3.8.4 Price will carry significant weighting at call-off stage therefore, where there is more than one provider able to meet the placement requirements, the contract will be awarded to the provider with the lowest price.
- 3.9 The framework is expected to re-open in February 2024 with bids being evaluated in March 2024. New contracts will be awarded from April 2024.
- 3.10 From the 28 October 2023, a change in law means that all SIA providers were required to be registered with Ofsted. Any provider not registered will not be able

to be retained or added to the Framework. The Council will need to amend the terms of the framework to make it clear that Ofsted registration is mandatory. There is a risk that this requirement will reduce capacity for this service although provider events and support on the registration process has been provided by the Council to providers to reduce this risk.

4 Links to our Strategic Ambitions

4.1 This report links to the following aims in the Essex Vision:

- Provide an equal foundation for every child

4.2 Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030:

- by further reducing the number of out of county placements and the associated travel by visiting social work teams.

4.3 This report links to the following strategic priorities in the emerging Organisational Strategy 'Everyone's Essex':

- A good place for children and families to grow.

5 Options

Option 1 (recommended option): To reopen the Framework for the provision of SIA in all four Lots:	
Benefits	Risks
Provides a flexible and compliant mechanism that will support the Council to meet its statutory duties.	No further applications to join the framework are received. To mitigate this risk market research has taken place to ensure that there is interest from new providers to join the framework.
Increase the range and choice of suitable placements, by enabling new providers to enter the framework, creating greater diversity and capacity for SIA provision.	Timescales of the reopening have also been provided at market forums to ensure that providers have ample time to prepare for the reopening.
Enables current providers to refresh their costings to take into consideration inflation and the costs of Ofsted registration/fees. Having these costings means that the Council can predict future spend accurately. Current costings that were provided at the start	Providers that apply to join the framework may not be of the same quality as current providers. To mitigate this risk the re-opening will follow the same procurement process as the initial opening of the framework, using the same documentation and quality standards as before.

of the framework 2 years ago are now outdated which means fee uplifts are requested on an ad hoc basis by providers making budget estimations difficult.	
Option 2 (not recommended): Do not Reopen the framework	
Benefits	Risks
Minimises capacity and internal resource spent on the re-opening process	<p>Risk of cost escalation as providers negotiate 'intensive support' rates through the council having to spot purchase.</p> <p>New providers are unable to join the framework meaning that they would need to be purchased via spot purchasing arrangements which is uncompliant with procurement procedures and a risk for the council and the young person as there are no agreed Terms and Conditions</p>

6 Issues for consideration

6.1 Financial implications

6.1.1 The current cost of Semi-independent Accommodation is set out below:

Lot	Open Placements	Average Weekly Cost £	Total Cost £000
Lot A: 16-17 Year olds	74	1,207	3,701
Lot B: SMC	242	574	6,673
Lot C: NRPF	72	430	1,576
Lot D: Intensive	32	4,845	7,057
Total	420	986	19,007

Non SMC: Lots A and D	106	-	10,758
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6.1.2 Both Lots B and C are funded through the Unaccompanied Asylum Seeking Children grant awarded to the Council. The budget for Lots A and B for 2023/24 is £9.4m leaving a forecast over spend for 2023/24 of £1.4m.

6.1.3 The cost of Semi-Independent Accommodation has increased since the commencement of the framework. The cost increases have mainly been attributable to the following factors:

- Volume of placements:

The table below sets out the change in the volumes of young people in supported accommodation at the end of financial year 2021/22 to current volumes in 2023/24:

Lot	2021/22 (Year end)	2023/24 (Period 5)	Volume Change (-) + /	% Change
Lot A 16-17	59	74	+ 15	25%
Lot B UASC	115	242	+ 127	110%
Lot C NRPF	63	72	+ 9	14%
Lot D Intensive	17	32	+ 15	88%
Total	254	420	+ 166	65%

- Complexity of need:

The proportion of young people accessing the service in Lot D requiring an enhanced level of support has increased since 2021/22. Intensive placements now account for 30% of all Lot A and D placements. This is an increase from 22% in 2021/22. The average cost of an intensive placement is £4,900 per week.

6.1.4 In addition to the complexity of need and volume of placements there is expected to be further cost pressures to the framework because of increased regulation through the introduction of national standards and inflation which continues to remain high.

- Regulation

The introduction of mandatory national standards of Ofsted-led registration and inspection for providers of supported accommodation for young people will directly impact the cost of accommodation as providers are expected to incur additional staffing costs and annual registration and inspection fees.

- Inflation

Inflationary pressures in the wider economy including pay inflation, and energy costs have led to cost increases across the social care sector including semi-independent accommodation. CPI, although on a downward trend still remains above the government target of 2% at 6.7% (August 2023) and peaked at 11.1% in October 2022. To compound the cost impact of inflation on providers borrowing costs have also increased as the Bank of England raises interest rates. It is expected that these costs will be passed on to the Council through increases to weekly fees on future placements.

6.1.5 Initial forecasting indicates that through a combination of the aforementioned factors weekly prices in the framework are expected to increase between 15%

and 30%. This is also supported through research conducted by the County Councils Network who anticipate national cost rises in the sector of up to 30% over the next 3 years.

6.1.6 The framework is expected to re-open February 2024 for existing providers to submit a refresh of their weekly rates with new entrants to the framework to be evaluated in March 2024 and contracted to the framework from April 2024.

6.1.7 The forecast cost of the framework is set out in the table below and assumes an average number of places to be funded across the financial year to meet demand. Costs are inclusive of a 22.5 % price uplift at the time of re-opening. There will not be another opportunity for providers to refresh prices during the remaining duration of the framework which is due to end November 2026. Total forecast expenditure is expected to be a minimum of £45.9m over the period of February 2024 to end of November 2026.

Lot	2023/24 (2 months)		2024/5		2025/6 (5 months)		Total Cost £000
	Forecast Volume	Forecast Cost £000	Forecast Volume	Forecast Cost £000	Forecast Volume	Forecast Cost £000	
Lot A: 16-17 Year olds	57	754	57	4,398	57	2,950	8,102
Lot B: SMC	237	1,502	253	9,283	266	6,541	17,326
Lot C NRPF	71	338	76	2,087	80	1,471	3,896
Lot D: Intensive	29	1,548	29	9,033	29	6,058	16,639
Total	394	4,142	416	24,801	432	17,020	45,963

6.1.8 For financial years 2023/4 and 2024/25 the Council is in receipt of additional grant funding to support the administrative costs of regulation and to support an increase in provider fees. The funding allocated for fees increases is set out below:

	20203/24 £000	2024/25 £000	Total £000
Grant available to offset fee increases	252	505	757

6.1.9 In excluding the costs of Lot B and Lot C where grant funding is currently received to meet the cost of these placements, the forecast net cost of the framework to the Council is summarised in the table below. In comparison to the 2023/24 outturn of £10.8m the increase in the cost of the framework will result in a pressure on the MTRS in 2024/25 of £2.1m.

Lot	2023/24 (2 months)		2024/5		2025/6 (5 months)		Total Cost £000
	Forecast Volume	Forecast Cost £000	Forecast Volume	Forecast Cost £000	Forecast Volume	Forecast Cost £000	

Non SMC: Lots A and D	86	2,302	86	13,431	86	9,008	24,741
Grant available to offset fee increases		(252)		(505)		0	(757)
Net Cost		2,050		12,926		9,008	23,984

6.1.10 Although the table reflects the forecast spend through the framework based on current volumes and through applying insight to estimate the growth in placements through to the framework end. However, there still remains a risk that costs expected through placement volume, increased regulation and the mix of placements across each of the Lots do not match current assumptions. Therefore, there is risk that the overall cost of the framework may increase over and above those forecast. This will be monitored on an ongoing basis with cost pressures to be addressed through the Medium Term Resource Strategy.

6.2 Legal implications

6.2.5 Supported accommodation services fall within ‘social and other specific services’ within Schedule 3 of The Public Contracts Regulations 2015 (the “Regulations”). This means that the Council is required to undertake a competitive process before awarding any contract with a value of over £663,540.

6.2.6 ‘Pseudo’ framework agreements can be used for these type of services and the flexibility afforded to social and other specific services in the Regulations enables the Council to re-open a framework agreement during its term provided that the process is transparent and suppliers are treated equally.

6.2.7 The SIA Framework Agreement provides that it can be reopened in certain circumstances including when there is sufficient interest from new providers to merit opening the framework. Capacity is also relevant and an increase in capacity is needed because of increased demand.

6.2.8 During the re-opening process, existing providers have the opportunity to amend their pricing from the amended pricing matrix. The newly selected price is then scored in accordance with the published criteria.

6.2.9 Ofsted registration for registered providers of supported accommodation services is now mandatory and a complete application must be made to Ofsted by 28 October 2023. The Council is able to modify the terms of the Framework Agreement to include this requirement pursuant to Regulation 72(1)(c).

6.2.10 S22D of the Children Act 1989 enables all local authorities to use this type of provision for some of the 16 and 17-year-old young people in their care if the local authority has decided to do so as a consequence of a looked after child review in consultation with the Independent Reviewing Officer or is satisfied that it is necessary in order to safeguard the welfare of a looked after child (a) to make such arrangements; and (b) to do so as a matter of urgency.

7. Equality and Diversity Considerations

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

7.3 The Equalities Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8. List of Appendices

8.1 Appendix 1 – Equalities Comprehensive Impact Assessment

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Beverley Egan Cabinet Member Children and Families	23.10.2023

In consultation with:

Role	Date
Helen Lincoln, Executive Director for Children Families & Education Services	23.10.2023
Executive Director for Corporate and Customer Services (S151 Officer)	12.10.2023
Stephanie Mitchener on behalf of Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	06.10.23
Katie Bray on behalf of Paul Turner	